

Assembly Bill No. 1902

Passed the Assembly August 22, 2002

Chief Clerk of the Assembly

Passed the Senate August 20, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 11580.011 of the Insurance Code, and to add Section 27362.1 to the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1902, Reyes. Automobile insurance: damaged child safety restraint systems.

Existing law provides for regulation of insurers by the Insurance Commissioner and describes the coverage required to be provided by various categories of automobile insurance. Under these provisions, coverage is required to be provided for the replacement of a child passenger restraint system that was in use by a child during an accident for which the policy is applicable due to the liability of an insured.

This bill, upon the filing of a claim pursuant to a policy, would impose an obligation upon an insurer to ask, unless it is otherwise determined, whether a child passenger restraint system was in use by a child during an accident that is covered by the policy, and if so, to replace the child passenger restraint system in accordance with these provisions or reimburse the cost to a claimant for purchasing a new child passenger restraint system.

This bill would also provide that an insured may surrender a replaced child passenger restraint system to the nearest office of the Department of the California Highway Patrol.

Existing law prohibits a manufacturer, wholesaler, or retailer from selling or installing a child passenger restraint system in a motor vehicle if the system does not conform to all applicable federal motor vehicle safety standards on the date of sale or installation. A violation of this provision is a misdemeanor.

This bill would prohibit an individual from selling or offering for sale a child passenger restraint system that was in use by a child during an accident, subject to a fine of \$100. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11580.011 of the Insurance Code is amended to read:

11580.011. (a) As used in this section, “child passenger restraint system” means a system as described in Section 27360 of the Vehicle Code.

(b) Every policy of automobile liability insurance, as described in Section 16054 of the Vehicle Code, shall provide liability coverage for replacement of a child passenger restraint system that was in use by a child during an accident for which liability coverage under the policy is applicable due to the liability of an insured.

(c) Every policy of automobile liability insurance that provides uninsured motorist property damage coverage, as described in paragraph (2) of subdivision (a) of Section 11580.26, shall provide coverage for replacement of a child passenger restraint system that was in use by a child during an accident for which uninsured motorist property damage coverage under the policy is applicable due to the liability of an uninsured motorist.

(d) Every policy that provides automobile collision coverage or automobile physical damage coverage, as described in Section 660, shall include a child passenger restraint system within the definition of covered property, if the child passenger restraint system was in use by a child during an accident.

(e) Upon the filing of a claim pursuant to a policy described in subdivision (b), (c), or (d), unless otherwise determined, an insurer shall have an obligation to ask whether a child passenger restraint system was in use by a child during an accident that is covered by the policy, and an obligation to replace the child passenger restraint system in accordance with this section if it was in use by a child during the accident or reimburse the claimant for the cost of purchasing a new child passenger restraint system.

(f) An insured, upon acquiring a replacement child passenger restraint system, may surrender the child passenger restraint system that was replaced to the nearest office of the Department of the California Highway Patrol.



SEC. 2. Section 27362.1 is added to the Vehicle Code, to read:

27362.1. (a) No individual may sell or offer for sale a child passenger restraint system that was in use by a child during an accident involving a motor vehicle.

(b) A violation of this section shall be punished by a fine of one hundred dollars (\$100).

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2002

Governor

